

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1446 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 6-6-1.1-201, AS AMENDED BY
4 P.L.192-2002(ss), SECTION 132, IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 201. A **cents per mile**
6 license tax of ~~eighteen cents (\$0.18) per gallon~~ **of one cent (\$0.01)** is
7 imposed on the use of all gasoline used in Indiana, except as otherwise
8 provided by this chapter. **The cents per mile license tax is annually**
9 **converted to a per gallon rate as provided in section 201.2 of this**
10 **chapter.** The distributor shall initially pay the tax on the billed gallonage
11 of all gasoline the distributor receives in this state, less any deductions
12 authorized by this chapter. The distributor shall then add the per gallon
13 amount of tax to the selling price of each gallon of gasoline sold in this
14 state and collected from the purchaser so that the ultimate consumer
15 bears the burden of the tax.

16 SECTION 2. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2004]: **Sec. 201.2. (a) As used in this section, "motor fuel"**
19 **has the meaning set forth in IC 6-6-4.1-1(g).**

20 **(b) As used in this section, "CPI" refers to the United States**
21 **Bureau of Labor Statistics Consumer Price Index for Indiana, all**
22 **items, all urban consumers, or its successor index.**

23 **(c) The per gallon conversion of the cents per mile license tax**

1 imposed under section 201 of this chapter is the amount
 2 determined in STEP SEVEN of the following formula, rounded off
 3 to the nearest one-tenth cent (\$0.001):

4 STEP ONE: Divide:

5 (A) the Indiana motor vehicle miles of travel (VMT) for
 6 the calendar year immediately preceding the calendar
 7 year in which the new per gallon conversion rate must be
 8 published under subsection (d), as reported by the United
 9 States Federal Highway Administration; by

10 (B) the certified taxable gallons of motor fuel for the
 11 calendar year immediately preceding the calendar year in
 12 which the new per gallon conversion rate must be
 13 published under subsection (d), as reported by the
 14 department;

15 to determine the current average miles per gallon (AMPG).

16 STEP TWO: Multiply the AMPG calculated under STEP ONE
 17 by the cents per mile license tax imposed under section 201
 18 of this chapter.

19 STEP THREE: Determine the percentage change between the
 20 CPI as last reported for calendar year 2003 and the CPI as
 21 last reported for the previous calendar year.

22 STEP FOUR: Express the percentage change determined in
 23 STEP THREE as a three (3) digit decimal rounded to the
 24 nearest thousandth.

25 STEP FIVE: Add one (1) to the decimal determined in STEP
 26 FOUR.

27 STEP SIX: Multiply the STEP TWO amount by the sum
 28 determined in STEP FIVE.

29 STEP SEVEN: For calendar year 2005, determine the greater
 30 of eighteen cents (\$0.18) or the STEP SIX result. For
 31 calendar years beginning after December 31, 2005, determine
 32 the greater of:

33 (A) the STEP SIX result; or

34 (B) the amount determined under this STEP for the
 35 previous calendar year.

36 (d) Not later than November 1 of each year, the department
 37 shall:

38 (1) publish the annual tax rate in effect for the following
 39 calendar year in the Indiana Register; and

40 (2) widely disseminate information concerning the
 41 applicability of the per gallon conversion rate.

42 (e) Not later than November 1 of each year, the department
 43 shall publish in the Indiana Register and widely disseminate

1 **information concerning:**

2 **(1) the certified taxable gallons of fuel; and**

3 **(2) the Indiana vehicle miles of travel;**

4 **used in the calculation of the per gallon conversion rate under**
5 **subsection (c).**

6 SECTION 3. IC 6-6-1.1-502 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 502. (a) Except as
8 provided in subsection (b), at the time of filing each monthly report,
9 each distributor shall pay to the administrator the full amount of tax due
10 under this chapter for the preceding calendar month, computed as
11 follows:

12 (1) Enter the total number of invoiced gallons of gasoline received
13 during the preceding calendar month.

14 (2) Subtract the number of gallons for which deductions are
15 provided by sections 701 through 705 of this chapter from the
16 number of gallons entered under subdivision (1).

17 (3) Subtract the number of gallons reported under section 501(3)
18 of this chapter.

19 (4) Multiply the number of invoiced gallons remaining after
20 making the computation in subdivisions (2) and (3) by the tax rate
21 ~~prescribed by section 201~~ **determined under section 201.2** of
22 this chapter to compute that part of the gasoline tax to be
23 deposited in the highway, road, and street fund under section
24 802(2) of this chapter or in the motor fuel tax fund under section
25 802(3) of this chapter.

26 (5) Multiply the number of gallons subtracted under subdivision
27 (3) by the tax rate ~~prescribed by section 201~~ **determined under**
28 **section 201.2** of this chapter to compute that part of the gasoline
29 tax to be deposited in the fish and wildlife fund under section
30 802(1) of this chapter.

31 (b) If the department determines that a distributor's:

32 (1) estimated monthly gasoline tax liability for the current year; or

33 (2) average monthly gasoline tax liability for the preceding year;
34 exceeds ten thousand dollars (\$10,000), the distributor shall pay the
35 monthly gasoline taxes due by electronic fund transfer (as defined in
36 IC 4-8.1-2-7) or by delivering in person or by overnight courier a
37 payment by cashier's check, certified check, or money order to the
38 department. The transfer or payment shall be made on or before the
39 date the tax is due.

40 SECTION 4. IC 6-6-1.1-606.6 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 606.6. (a) Except as
42 provided in subsection (c), every person included within the terms of
43 section 606(a) of this chapter who transports gasoline in a vehicle on
44 the highways of Indiana in a vehicle having a total tank capacity of less
45 than eight hundred fifty (850) gallons is liable to the state for a penalty

1 equal to the rate provided in ~~section 201~~ **section 201.2** of this chapter
 2 on all gasoline transported into Indiana and delivered to any person other
 3 than a licensed distributor.

4 (b) Except as provided in subsection (c), every person included
 5 within the terms of section 606(c) of this chapter who transports
 6 gasoline in a vehicle on the highways of Indiana is liable to the state for
 7 a penalty equal to the rate provided in ~~section 201~~ **section 201.2** of this
 8 chapter on all gasoline:

9 (1) received by the person for transportation to a point outside
 10 Indiana;

11 (2) not ~~in fact~~ transported to a point outside Indiana; and

12 (3) ~~in fact~~ delivered to a person other than a licensed distributor
 13 inside Indiana.

14 (c) The following are excluded when computing any liability under
 15 this section:

16 (1) All deliveries of gasoline when the tax imposed by law was
 17 charged or collected by the parties under the circumstances
 18 described in this section.

19 (2) Deliveries of gasoline used in computing the tax under section
 20 301 of this chapter.

21 SECTION 5. IC 6-6-1.1-801.5, AS AMENDED BY
 22 P.L.192-2002(ss), SECTION 133, IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 801.5. (a) The
 24 administrator shall transfer one-ninth (1/9) of the taxes that are
 25 collected under this chapter to the state highway road construction and
 26 improvement fund.

27 (b) **The amount of the transfer required under subsection (a)**
 28 **is the amount determined in the last of the following STEPS:**

29 **STEP ONE: Determine the amount of the taxes collected**
 30 **under this chapter.**

31 **STEP TWO: Determine the tax rate determined under**
 32 **section 201.2 of this chapter.**

33 **STEP THREE: Multiply the STEP TWO result by one hundred**
 34 **(100).**

35 **STEP FOUR: Express the STEP THREE result as a fraction,**
 36 **with two (2) being the numerator and the STEP THREE result**
 37 **being the denominator.**

38 **STEP FIVE: Multiply the STEP FOUR result by the STEP**
 39 **ONE result.**

40 (c) The administrator shall transfer one-eighteenth (1/18) of the
 41 taxes that are collected under this chapter to the state highway fund.

42 ~~(c)~~ (d) The administrator shall transfer one-eighteenth (1/18) of the
 43 taxes that are collected under this chapter to the auditor of state for
 44 distribution to counties, cities, and towns. The auditor of state shall
 45 distribute the amounts transferred under this subsection to each of the

counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

~~(d)~~ (e) After the transfers required by subsections (a) through ~~(c)~~, (d), the administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

(2) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1; and

(3) forty percent (40%) to the Indiana department of transportation.

~~(e)~~ (f) The auditor of state shall hold all amounts of collections received under subsection ~~(d)~~ (e) from the administrator that are made during a particular month and shall distribute all of those amounts pursuant to subsection ~~(d)~~ (e) on the fifth day of the immediately succeeding month.

~~(f)~~ (g) All amounts distributed under subsection ~~(d)~~ (e) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1."

Page 5, after line 40, begin a new paragraph and insert:

"SECTION 14. [EFFECTIVE JULY 1, 2004] (a) **Notwithstanding IC 6-6-1.1-201, as amended by this act, the new cents per mile license tax and the per gallon conversion rate determined under IC 6-6-1.1-201.2, as added by this act, apply to the use of gasoline after December 30, 2004.**

(b) **The department of state revenue shall, before November 1, 2004, publish in the Indiana Register the per gallon conversion rate**

1 **determined under IC 6-6-1.1-201.2, as added by this act, that is**
2 **applicable for the calendar year beginning January 1, 2005.**

3 **(c) This SECTION expires July 1, 2005."**

4 Renumber all SECTIONS consecutively.

(Reference is to HB 1446 as printed January 30, 2004.)

Representative Scholer